

REMARKS

Claims 1-23 are pending. Applicants have amended claim 3 to depend from claim 1. Applicants have also amended claim 5 to correct a typographical error by removing an errant comma.

Applicants address each of the objections and rejections below in the order in which they appear in the Action.

I. Information Disclosure Statement

Applicants submit concurrently herewith a Supplemental Information Disclosure Statement that corrects the irregularities noted at page 2 of the Action. Applicants have cited U.S. Patent Nos. 4,627,432 and 4,778,054 corresponding to foreign language document DE3348370 and have cited U.S. Patent No. 4,330,835 corresponding to EP0009292. Applicants have also provided a copy of WO03/061744, which was inadvertently omitted from the previously filed IDS.

II. Claims 1, 2, 3, 4, and 11-23 Are Patentable Over Makiej

Claims 1, 2, 3, 4, and 11-23 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,002,048 to Makiej, Jr. (Makiej). Applicants respectfully traverse this rejection.

Claim 1 recites a unitary medicament dispenser device for use in the delivery of a first medicament and at least one further medicament as a combination medicament product, the device comprising

a first medicament dispenser for the delivery of said first medicament; and

at least one further medicament dispenser for the delivery of said at least one further medicament,

wherein said first medicament dispenser and said at least one further medicament dispenser enable the first and the at least one further medicament to be kept separate until the point of delivery, and the first medicament dispenser is different in type to the at least one further medicament dispenser.

As described in the specification at page 3, lines 4-10, and page 4, lines 21-25, for example, types of medicament dispensers include, but are not limited to, reservoir dry powder inhalers (RDPIs), multi-dose dry powder inhalers (MDPIs), unit dose dry powder inhalers (UDPIs), metered dose inhalers (MDIs), and liquid spray inhalers

(LSIs). The recitations “different in type” in claim 1, thus mean that the first medicament dispenser is of a different type from the at least one further medicament dispenser. For example, the first medicament dispenser could be an MDI and the at least one further medicament dispenser could be an LSI.

Applicants respectfully submit that Makiej neither discloses nor suggests a unitary medicament dispenser device as recited in claim 1 wherein the first medicament dispenser is different in type to the at least one other medicament dispenser. Instead, Makiej proposes an inhalation device for delivering medication from two or more of the same type of medicinal aerosol containers. At column 2, lines 13-17, Makiej makes it clear that two or more MDIs are contemplated for use in the inhalation device by stating:

As is well known to those skilled in the art, displacement of the aerosol container against the valve discharge assemblies will cause the pressurized medication stored in the container to escape through the exit tubes and into the valve assemblies.

Thus, Makiej merely proposes a device that includes two or more MDIs, which would be two or more of the same type of medicament dispenser. Makiej neither discloses nor suggests a unitary medicament dispenser device as recited in claim 1 wherein the first medicament dispenser is different in type to the at least one other medicament dispenser.

For at least the foregoing reasons, Applicants respectfully submit that claim 1 is patentable over Makiej and respectfully request that this rejection be withdrawn.

Claims 2, 3, 4, and 11-23 each depend from patentable independent claim 1. For at least this reason and without acquiescing in the Action’s rejections of these claims, Applicants respectfully submit that these dependent claims are also patentable and request that these rejections be withdrawn. Applicants expressly reserve the right to argue the separate patentability of one or more of these dependent claims in the future.

III. Claims 5-10 Are Patentable Over Weinstein

Claims 5-10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,830,490 to Weinstein, et al. (Weinstein). Applicants respectfully traverse this rejection.

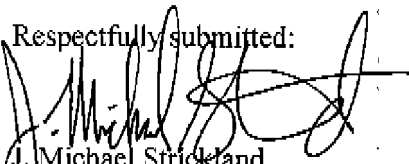
Claims 5-10 each depend from patentable independent claim 1. For at least this reason, these dependent claims are patentable over Weinstein. Applicants take this opportunity, however, to point out that Weinstein neither discloses nor suggests a unitary medicament dispenser device for use in the delivery of a first medicament and at least one further medicament as a combination medicament product as recited in claims 5-10. Instead, Weinstein proposes a method and device for organizing, storing, instructing, and coordinating the combined use of aerosol and oral medications for the treatment of disorders including respiratory tract disorders for the purpose of reducing medication error and increasing therapeutic compliance. Applicants respectfully request that these rejections be withdrawn.

IV. Conclusion

The concerns of the Examiner addressed in full, Applicants respectfully request that the outstanding rejections be withdrawn and that a Notice of Allowance be issued forthwith. Should the Examiner have any questions regarding this application, Applicants encourage the Examiner to contact the undersigned, who can be reached at (919) 483-9024.

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